

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

JOE PEPPERS and NATASHA PEPPERS,]	
as surviving natural parents and next of kin of]	
STEWART PEPPERS, deceased,]	
]	
v.]	No. 2:13-cv-0180
]	JUDGE GREER
WASHINGTON COUNTY, TENNESSEE;]	MAGISTRATE INMAN
SHERIFF ED GRAYBEAL, JR., individually]	JURY DEMAND
and in his official capacity; LIEUTENANT]	
JASON LOWE, in his individual and official]	
capacity; CORRECTIONS OFFICER MARTIN,]	
in his individual and official capacity;]	
CORRECTIONS OFFICER DRAPER, in his]	
individual and official capacity; CORRECTIONS]	
OFFICER CORNETT, in his individual and]	
official capacity; CORRECTIONS OFFICER]	
GARMIN, in his individual and official capacity;]	
and CORRECTIONS OFFICER RICHARDS,]	
in his individual and official capacity,]	
]	
Defendants.]	

SUPPLEMENTAL BRIEF PURSUANT TO LOCAL RULE 7.1(d)
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT [DOC. 15]

The defendants, Sheriff Ed Graybeal, Jr., Lt. Jason Lowe, Corrections Officer Martin, Corrections Officer Draper, Corrections Officer Cornett, Corrections Officer Garmer, and Corrections Officer Richards, in their individual capacities, submit the following supplemental brief pursuant to Local Rule 7.1(d) for the purpose of bringing to the Court's attention the recently released autopsy report which establishes the cause of death of Stewart W. Peppers. Filed with this supplemental brief is the Affidavit of Karen Cline-Parhamovich, the Chief Medical Examiner for the State of Tennessee, who certifies that a true and accurate copy of the autopsy report is attached with her Affidavit.

The autopsy report is admissible as an exception to the hearsay rule pursuant to Federal Rule of Civil Procedure 803(6) inasmuch as it is a record of a regularly conducted activity as established by the Affidavit of Dr. Cline-Parhamovich. Additionally, it is admissible as an exception to the hearsay rule pursuant to Rule 803(8) as a public record as consistent with Tennessee Code Annotated § 38-7-110.

In their original Brief, these defendants argued that the circumstances of the events indicated that Mr. Peppers' death was not due to the force used as alleged by the plaintiffs, but instead was likely due to a condition known as "excited delirium". [Doc. 27, PageID #: 243]. The autopsy report now establishes that the cause of death is from "Excited Delirium associated with misuse of Nandrolone Decanoate, exogenous testosterone and acute cannabinoid." *See Affidavit of Karen Cline-Parhamovich, D.O., D.A.B.P., Ex. A.* The autopsy report also finds "no significant trauma or pathology to which death may be attributed." *Id.*

These defendants submit that the autopsy report is pertinent and useful to the Court in the Court's overall analysis of the circumstances and the issue of whether these defendants are entitled to qualified immunity inasmuch as the findings establish a sudden cause of death that was not caused by the force used and establish a medical cause for the violent behavior of Mr. Peppers. The autopsy provides further evidence demonstrating that the defendants did not maliciously or sadistically inflict punishment on Mr. Peppers in a manner that would "shock the conscience."

The defendants respectfully submit that this supplemental evidence further establishes that they are entitled to summary dismissal based upon qualified immunity.

Respectfully submitted,

s/ Jeffrey M. Ward

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Cornett, Corrections Officer Garmer, and
Corrections Officer Richards, in their individual
capacities

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2014, a copy of the foregoing Supplemental Brief Pursuant to Local Rule 7.1(d) in Support of Motion for Summary Judgment [Doc. 15] was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

s/ Jeffrey M. Ward

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